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No. 08F-BD118-SBD

## CONSENT ORDER

Respondents.

On June 12, 2008, the Arizona Department of Financial Institutions ("Department") issued its Report of Examination of Escrow No. EA-0000106. The Department also provided to Respondents a proposed form Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order, alleging that Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an administrative hearing and without admitting liability, Respondent consents to the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

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1. Respondent Transnation Title Insurance Company (“Transnation”), a Nebraska corporation, is a subsidiary of, and is one hundred percent (100%) owned by, LandAmerica Financial Group, Inc. (“LandAmerica”), a Virginia corporation. Transnation is authorized to transact business in Arizona as an escrow agent, license number EA-0000106, within the meaning of A.R.S. §§ 6-801, *et seq.* Transnation’s business includes engaging in or carrying on escrow business, or acting in the capacity of an escrow agent, within the meaning of A.R.S. § 6-801(6).

2. Respondent Dan A. Robledo is the Senior Vice President and Arizona Operations Manager of Transnation.

3. Commencing on or around April 25, 2007, the Department conducted a limited scope examination of Transnation's business affairs at Transnation's Pinetop, Arizona branch office. As a result of the examination, the Department found that Transnation:

1 a. Failed to maintain a systematic internal control structure as prescribed by A.R.S. § 6-841,  
2 resulting in the inadequate supervision of the activities of certain Escrow Officers;  
3 specifically:

4 i. From on or about January 2004 through on or about February 2007, Transnation  
5 handled approximately one thousand two hundred (1,200) escrow transactions at its  
6 branch office located at 1191 E. White Mountain Boulevard, Pinetop, Arizona  
7 85935, Branch License #0103986, involving Arizona Residential Property  
8 Purchasers, LLC, Arizona Residential Property Purchasers II, LLC, Arizona  
9 Residential Property Purchasers III, LLC, Residential Asset Management, LLC,  
10 RAM Residential Equities I, LLC, RAM Residential I, LLC, RAM Residential II,  
11 LLC, and RAM Residential III, LLC (hereinafter collectively referred to as "RAM");

12 ii. Respondents allowed RAM to involve itself, or failed to prevent RAM from  
13 involving itself, in certain aspects of escrow transactions which were the  
14 responsibility of Transnation as the licensed escrow agent. In each transaction,  
15 RAM was the buyer, the seller, and/or the borrower;

16 iii. The Department examiners reviewed seven hundred sixty three (763) loans, totaling  
17 thirty six million five hundred seventy six thousand seventy eight dollars and twenty  
18 seven cents (\$36,576,078.27), specifically:

19 1. A total of six hundred fifty one (651) loans were financed by private lenders and  
20 one hundred twelve (112) by institutional lenders;

21 2. A substantial number of the six hundred fifty one (651) private lender escrows  
22 contained documents<sup>1</sup> prepared by RAM;

23 3. A substantial number of the one hundred twelve (112) escrows with an  
24 institutional lender contained documents prepared by RAM;

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26 <sup>1</sup> A number of the documents prepared by RAM were documents which should have been prepared by and followed up  
on by the licensed Escrow Agent.

- 1                   4. A total of one hundred twenty nine (129) liens were not in the record position
- 2                   that was required by the lender's escrow instructions;
- 3                   5. A total of two hundred seventy five (275) lien release recordings exceeded one
- 4                   month from the time of the escrow recording, in some cases in excess of one (1)
- 5                   year;
- 6                   6. A total of fifty five (55) lien releases were not recorded as of June 2007; and
- 7                   7. Based on the findings in subparagraphs 1 through 6 above, the Department found
- 8                   that there were substantial violations of law;
- 9           iv. A number of the lenders, primarily the non-institutional investors, did not (at least as
- 10           of the time of examination) end up in the record lien position required by the escrow
- 11           instructions given to Transnation. Specifically, but without limitation, the
- 12           Department's examination revealed that in certain cases:
- 13               1. Preliminary title reports in the loan files did not reveal prior outstanding liens
- 14               which showed up on the bring-down reports. These preliminary title reports did
- 15               not search the records past a "base" date; therefore some prior outstanding liens
- 16               were missed. A number of title policies were issued insuring the lender was in
- 17               first or second record position when in reality they were not;
- 18               2. A number of lien releases, which were "to come" items from lenders being re-
- 19               secured with other properties, never came, or were received and recorded months
- 20               later; and some lien releases were prepared but were never recorded;
- 21               3. On a number of occasions, Transnation failed to pay off prior lien holders
- 22               through escrow, but instead relied on RAM to pay the amounts outside of escrow
- 23               which resulted in some liens not being paid off and releases never recorded as
- 24               required;
- 25               4. Deeds of trust for three (3) loan transactions were never recorded, leaving the
- 26               lender without a recorded lien; and

- 5. Transnation failed to conduct adequate follow up on “to come” items;
- v. Many of the sale transactions examined were to buyers who received 100% financing with institutional lenders, signing documents stating they would occupy the property, when in fact they were investment properties. Within a few months the buyers deeded the property back to RAM, without RAM assuming the underlying debt, and leaving the buyer still responsible for the loans. RAM would then obtain various loans on the same property; and
- vi. In certain cases it appears that Transnation failed to identify prior liens and obtain proper releases, thus contributing to the losses suffered by the lenders.

## CONCLUSIONS OF LAW

1. Pursuant to A.R.S. Title 6, Chapter 7, the Superintendent has the authority and duty to regulate all persons engaged in the escrow agent business and the duty to enforce statutes, rules, and regulations relating to escrow agents.

2. By the conduct set forth above in the Findings of Fact, Transnation violated the following:

- a. A.R.S. § 6-841 by failing to maintain, with respect to the transactions described above, a systematic internal control structure;
- b. A.R.S. § 6-817(A)(7) by failing, with respect to certain of the transactions described above, to account properly for escrow property as required by the terms of the escrow; and
- c. A.R.S. § 6-846.04(A) by deviating from Transnation's filed and approved rates, by not charging a fee for all escrow transactions.

3. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) entry of an order or any

1 other remedy necessary or proper for the enforcement of the statutes and rules regulating escrow  
2 agents pursuant to A.R.S. §§ 6-123 and 6-131.

3 **ORDER**

4 1. Transnation shall immediately stop the violations set forth in the foregoing Findings of Fact  
5 and Conclusions of Law. Transnation shall take the following actions, and Dan A. Robledo shall  
6 take all actions within his authority and ability to cause Transnation to take the following actions:

- 7 a. Adopt and maintain a systematic internal control structure;  
8 b. Account properly for escrow property as required by the terms of the escrow; and  
9 c. Provide the Department with a detailed report of Transnation's revisions to its internal  
10 control policy and/or structure, in response to this situation, by August 8, 2008.

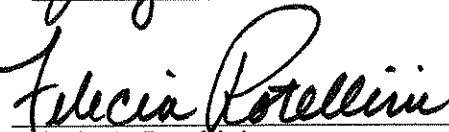
11 2. Transnation shall immediately pay to the Department a civil money penalty in the amount of  
12 **six hundred thousand dollars (\$600,000.00).**

13 3. Transnation shall immediately pay to the Department (if not previously paid) an examination  
14 fee in the sum of **ninety seven thousand six hundred eighty dollars (\$97,680.00).**

15 4. The provisions of this Order shall be binding upon Respondents, their employees, agents,  
16 and other persons participating in the conduct of the affairs of Respondents.

17 5. This Order shall become effective upon service, and shall remain effective and enforceable  
18 until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

19 SO ORDERED this 24th day of July, 2008.

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22 Felecia A. Rotellini  
Superintendent of Financial Institutions

23 **CONSENT TO ENTRY OF ORDER**

24 1. Respondents acknowledge that they have been served with a copy of the foregoing Findings  
25 of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are  
26 aware of their right to an administrative hearing in this matter, and have waived the same.

2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Respondents state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.

4. Respondents agree to cease from engaging in the violative conduct set forth above in the Findings of Fact and Conclusions of Law.

5. Respondents acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future; provided, however, that the Department shall take no further action, and shall impose no further penalty, against Respondents with respect to the transactions, acts and omissions which are the subject of the Report of Examination and the Consent Order.

6. Dan A. Robledo, on behalf of Transnation Title Insurance Company and himself, represents that he is the Senior Vice President and Arizona Operations Manager of Transnation, and that, as such, has been authorized by Transnation to consent to the entry of this Order on its behalf.

7. Respondents waive all rights to seek judicial review or otherwise to challenge or contest the validity of this Consent Order.

DATED this 22<sup>nd</sup> day of July, 2008.

By Dan A. Robledo  
Dan A. Robledo, Senior Vice President  
and Arizona Operations Manager  
Transnation Title Insurance Company

1 ORIGINAL of the foregoing filed this 24th  
2 day of July, 2008, in the office of:

3 Felecia A. Rotellini  
4 Superintendent of Financial Institutions  
5 Arizona Department of Financial Institutions  
6 ATTN: Susan Ross  
7 2910 N. 44th Street, Suite 310  
8 Phoenix, AZ 85018

9 COPY mailed/delivered same date to:

10 Craig A. Raby, Assistant Attorney General  
11 Office of the Attorney General  
12 1275 West Washington  
13 Phoenix, AZ 85007

14 Robert D. Charlton, Assistant Superintendent  
15 Jerry Landry, Senior Examiner  
16 Dianna Cox, Senior Examiner  
17 Tom Fink, Senior Examiner  
18 Arizona Department of Financial Institutions  
19 2910 N. 44th Street, Suite 310  
20 Phoenix, AZ 85018

21 AND COPY MAILED SAME DATE by  
22 Certified Mail, Return Receipt Requested, to:

23 Transnation Title Insurance Company  
24 c/o Dan A. Robledo, Senior Vice President  
25 and Arizona Operations Manager  
26 1850 N. Central Avenue, Suite 1210  
Phoenix, AZ 85004

Transnation Title Insurance Company  
c/o Dan A. Robledo, Senior Vice President  
and Arizona Operations Manager  
10306 Regency Parkway Drive  
Omaha, NE 68114


Transnation Title Insurance Company  
c/o Dan A. Robledo, Senior Vice President  
and Arizona Operations Manager  
5600 Cox Road  
Richmond, VA 23060

Transnation Title Insurance Company  
c/o Mary Bickerton  
1191 E. White Mountain Boulevard  
Pinetop, AZ 85935

1 Lawrence F. Harr, Statutory Agent For:  
2 Transnation Title Insurance Company  
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4 Omaha, NE 68114

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11 Attorneys for Respondents

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